

EXHIBIT G

Companies Get Weapon in Injury Suits

Many Silica-Damage Plaintiffs Also Filed Claims Over Asbestos



Tim Sharp/Agence France-Presse — Getty Images

President Bush at a discussion last month in Clinton Township, Mich., on changes to the civil litigation system. At far left is Lester Brickman, a Yeshiva University law professor, who is to testify at a Senate hearing on asbestos legislation today.

BY JONATHAN D. GLATER

Companies battling lawsuits brought by people claiming injuries caused by exposure to asbestos or silica have long contended that they are the victims of fraud.

The companies finally have evidence that their concerns may be real. Thousands of people who have said they were injured by one potentially lethal material are apparently double-dipping — now asserting separately that they were injured by the other.

More than half the plaintiffs in a federal lawsuit in Texas seeking compensation for exposure to silica — used in making glass, paint, ceramics and other materials — previously filed claims against a trust set up to compensate those injured by asbestos, a cancer-causing flame retardant.

Jared S. Garelick, a lawyer at the

A Senate hearing today may provide arguments for Bush officials.

Claims Resolution Management Corporation, a trust that processes asbestos-related claims, says the discovery of the other suits came after defense lawyers in the Texas case provided a list of plaintiffs to the trust. It ran the names of 8,629 plaintiffs through its database and found that 5,174 had already filed asbestos claims, probably recovering money.

"That's huge," said Nathan A. Schachtman, a defense lawyer at the firm of McCarter & English in Philadelphia who has defended companies in both asbestos and silica cases. "It's a big problem, not just for the courts," he said, "because it's dif-

ficult to get the information" about where plaintiffs have filed claims previously.

The evidence of seemingly duplicate injury claims is expected to emerge at a Senate Judiciary Committee hearing this morning on proposed legislation on asbestos liability.

The evidence will almost certainly be used by companies to ask for greater protection from silica-related lawsuits, while labor advocates will argue that blocking such suits may harm people filing legitimate cases. The evidence could also complicate efforts to enact a law that would remove asbestos claims from the courts.

According to prepared testimony by Lester Brickman, a law professor at the Cardozo School of Law of Yeshiva University, who will appear at today's hearing, "As with asbestos, the tragedy of sil-

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model, agreed on Monday to sell its life insurance business to MetLife for \$11.5 billion, and Merrill Lynch and Citigroup are looking at alternatives for their own asset-management units.

"What's critical is that you have strong focus" now in core businesses, said Kenneth I. Chenault, the chief executive of American Express. "The marketplace is more dynamic."

His company's brokerage business, American Express Financial Advisors, while profitable, has been a drag on the faster-growing charge card and credit card operations and a payment network business that processes more than \$400 billion in payments worldwide. Splitting off the advisory unit, executives said, will allow both companies to grow more quickly.

The spinoff is expected to be completed in the third quarter, and American Express will then be free to concentrate on its card business and the payment network. Those businesses had revenue of \$22 billion and profit of \$2.7 billion in 2004.

The revamped company is expected to generate earnings growth of 12 percent to 15 percent a year and have a return on equity of 28 percent to 30 percent, compared with 18 percent to 20 percent now. The spinoff will enable American Express "to concentrate its investment resources in these high-growth, high-return areas," Mr. Chenault said.

Investors appeared to share his optimism. The company's shares rose \$3.40, or 6.4 percent, to \$56.75.

"American Express investors are buying the stock for the card and the payment networks; that's why you saw the stock rally," said Ed Groshans, a specialty and mortgage finance analyst at Fox-Pitt Kelton. "They were happy to get rid of the poor performer." American Express Financial

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Google Defies Its Warning, Growing Briskly

By SAUL HANSELL

Google, the Internet search company, surprised Wall Street yesterday by announcing that its sales and profit margins grew much faster than expected in the

NYT
2/2/05
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Many Filing Silica Cases Sued Earlier Over Asbestos

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claims filed against companies that made, supplied or worked with silica may be dubious can presumably bolster the administration's position.

It is possible that a person could suffer from exposure to both asbestos and silica. But such a high number of duplicate cases is implausible, Mr. Schachtman, the corporate defense lawyer, said. Asbestos litigants who also say they were injured by silica, he said, will have to claim "that they didn't know that they had an injury from silica but they already knew they had a lung injury" from asbestos. That is a difficult argument, he said.

A legislative solution to the problem of asbestos liability is complicated by the fact that some people may indeed have been harmed by both substances, as Judge Edward R. Becker of the United States Court of Appeals for the Third Circuit pointed out last month, saying, "That's a tough nut we've got to deal with."

And there is recent evidence, unrelated to the problem of duplicate claims, that unsupported — even fraudulent — claims are a serious problem. In the lawsuit under way in Corpus Christi, Tex., doctors who had signed documents saying that plaintiffs in the case suffered from silicosis backed away from those conclusions when questioned under oath late last year.

One doctor, George Martindale, a radiologist in Mobile, Ala., who reviewed about 3,500 X-rays of potential silica claimants, said he never realized that his findings would be used as the primary basis for lawsuits.

"I never thought I was going to be the hearing is to take place as the Bush administration is pushing for changes in the civil justice system, for example by limiting the amount of damages that plaintiffs in civil suits can be awarded. Evidence that

Coors Shareholders Endorse Molson Deal

GOLDEN, Colo., Feb. 1 (AP) — Shareholders of the Adolph Coors Company overwhelmingly approved a merger with Molson Inc. of Canada on Tuesday, one of the last steps in a \$3.4 billion deal that will combine two family-run breweries hoping to keep up in the

A hearing for final approval is scheduled for Wednesday in Quebec Superior Court. The deal is expected to close Feb. 9.

The new Molson Coors Brewing Company will have 15 breweries and nearly 15,000 employees making brands like Molson Canadian,



Carol T. Powers for The New York Times. Left, Chris Klepman/Bloomberg News

Edward Becker, above left, a federal appeals judge, testifying at a Senate Judiciary hearing last month on asbestos injury, with Senator Arlen Specter, right, presiding. Below, an excerpt from a silicosis deposition.

- 1 radiograph, the diagnosis of silicosis is established
- 2 within a reasonable degree of medical certainty.
- 3 Now, Doctor, that's simply inaccurate, isn't it?
- 4 A. I can't -- yes, sir -- I can't diagnose
- 5 silicosis on the basis of that chest x-ray and ILO,
- 6 and I didn't intend to.

the diagnosing physician," Dr. Martindale said in a telephone interview yesterday, adding that he thought he was only reviewing another doctor's findings of silicosis. "I thought I was a second read on these films."

The federal district judge presiding over the silica class action, Janis Graham Jack, characterized the situation as a "fraudulent problem" and has ordered that all the doctors whose diagnoses support claims testify in her court later this month.

The targets of silica lawsuits have asserted for years that the cases against them are part of a frivolous, money-making scheme for lawyers in the Corpus Christi case alone.

American Express to Spin Off Unit and Focus on Charge

2004. By comparison, Merrill Lynch has 13,500 financial advisers and \$1.3 trillion in assets under management. Mr. Chenault said the separation

of manufacturing activity affirmed the rebound at the nation's factories, but not at the pace economists expected. The reading came in at \$6.4, down from a revised \$7.3 in December, and just under forecasts of \$7.

Oil prices, which have stayed high despite the relative success of week-end elections in Iraq and OPEC's decision to maintain current production targets, declined on speculation that a government report to be released today will show an increase in United States oil stockpiles. Crude futures settled down \$1.08, at \$47.12, on the New York Mercantile Exchange.

January was an uncharacteristically poor one for stocks, with the S&P 500 dropping 2.53 percent. This has raised some concern on Wall Street, because January's performance often foreshadows trading for the rest of the year.

"You're definitely seeing some institutions out there that held back in January that would've been out there had the markets gone up instead," said Bill Groenewald, head trader at vFinance Investments. "I do believe, however, that if we break this downward trend and have a solid move up, we'll see more people getting back in."

Lifting the Dow, the financial services giant American Express surged \$3.40, or 6.4 percent, to \$56.75, after announcing plans to spin off its financial advisory business to its shareholders and focus on its charge and credit card, payments processing

The Favorites

Stocks held by largest number of accounts

STOCK	YESTERDAY	CLOSE	CHANGE	YEAR TO DATE	STOCK
Agere	1.44	unc.	unc.	6.7%	IBM
Avaya	14.03	-0.32	-2.2	-18.4	JPMorgan
Chevron	55.15	+0.75	+1.4	+5.0	Johnson
Cisco	18.13	+0.09	+0.5	+6.2	Lucent
Citigroup	49.48	+0.43	+0.9	+2.7	Merck
Comcast	31.60	-0.59	-1.8	-5.0	Microsoft
ExxonMobil	53.27	+1.87	+3.2	+3.9	Pfizer
GenElec	36.28	+0.15	+0.4	+0.6	TimeWar
Home Dep	41.14	-0.12	-0.3	-3.7	Verizon
Intel	22.63	+0.18	+0.8	+3.2	WalMart

quarter, the biggest jump in two years. Net income was \$986 million, or 71 cents a share, compared with \$763 million, or 59 cents a share, in